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December 9, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**ORDINANCE CODIFYING TECHNICAL CHANGES TO THE
MEGAFLEX AND FLEX EMPLOYEE BENEFIT PLANS
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

This letter recommends the adoption of an ordinance that codifies previously approved changes in the employee benefit plans known "MegaFlex" and "Flex." Your Board approved these changes on September 16, 2008 and instructed that the requisite ordinance be placed on the agenda for adoption. This letter and the accompanying ordinance satisfy that instruction. In addition, the accompanying ordinance implements technical changes to the MegaFlex benefit known as "elective annual leave" to comply with federal tax law and related Internal Revenue Service (IRS) regulations.

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the accompanying ordinance amending Title 5 of the Los Angeles County Code to reflect changes to the MegaFlex and Flex employee benefit plans previously approved by your Board, and make other technical changes required by federal tax law and related regulations.

"To Enrich Lives Through Effective And Caring Service"

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PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On September 16, 2008, your Board approved changes in health and dental insurance premium rates and other changes in the group insurance benefits that will apply to represented and non-represented County employees in 2009. Included in those recommendations were changes in the 2009 minimum County "floor" contributions to the MegaFlex and Flex cafeteria benefit plans applicable to non-represented employees. In addition, your Board approved an adjustment in the 2009 fee that will be assessed to non-represented employees who use tobacco. Both of these changes will be codified with the adoption of the accompanying ordinance.

The accompanying ordinance also makes a change in the rules relating to the use of the MegaFlex elective annual leave benefit. This change establishes a certain order of usage for elective annual leave in relation to the other types of paid time off that are available to MegaFlex participants.

Elective Annual Leave Must Be Used Last

MegaFlex participants receive both nonelective and elective annual leave in lieu of the more traditional vacation and sick leave benefits received by most other County employees. Nonelective annual leave is earned at the rate of 10 days per year, and elective annual leave is additional time that may be purchased by employees through payroll deductions. Under existing policy, the 10 days of nonelective annual leave an employee earns in the current calendar year must be used before any elective annual leave may be used. Otherwise, there is no requirement to use any other accrued paid leave prior to using elective annual leave.

Proposed IRS regulations intended to take effect on January 1, 2009 require a change in current practice. The regulations require the exhaustion of all forms of accrued time prior to using elective annual leave. This includes all accrued nonelective annual leave, including any unused time earned in prior years. It also includes accrued compensatory time off for overtime worked, accrued holiday time, and accrued vacation and sick leave time (if an employee is sick or injured) earned prior to participation in MegaFlex. The accompanying ordinance amends Title 5 of the County Code to bring it into alignment with the IRS regulations effective January 1, 2009.

No Other Required Sequence for the Use for Accrued Time

Other than the requirement to use all banked time first, we are recommending there be no required order of usage within the various categories of banked time. We are recommending that each MegaFlex participant be allowed the discretion to designate which type of banked time to use first as long as all such available time gets used before any elective annual leave is used. For example, an employee may decide to use accrued compensatory time off before using nonelective annual leave, or accrued holiday time prior to using accrued sick leave earned prior to participating in MegaFlex, as long as all absences are otherwise authorized under the County Code. This flexibility is permitted under the applicable IRS regulations and is authorized by the accompanying ordinance.

The accompanying ordinance will continue the existing policy that provides for refunds equal to the value of any elective annual leave that is purchased by an employee, but unused at year-end. This prevents an unwarranted loss of the employee contributions that go to purchasing this time, and is also permissible under IRS regulations.

FISCAL IMPACT/FINANCING

None. Adoption of the accompanying ordinance will generate no additional County cost. The ordinance merely codifies changes already approved by your Board and ensures compliance with IRS requirements.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The recommended change in the rules relating to the use of elective annual leave is required by federal tax law and the related IRS regulations. All MegaFlex participants were notified of this impending change as a part of the 2009 MegaFlex enrollment process.

The accompanying ordinance has been approved as to form by the County Counsel.

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IMPACT ON CURRENT SERVICES (OR PROJECTS)

None.

Respectfully submitted,



WILLIAM T FUJIOKA
Chief Executive Officer

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WGL:WW:df

c: Executive Officer, Board of Supervisors
 County Counsel
 Auditor-Controller
 Department of Human Resources